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ABSTRACT

The study examined individuals and companies who used small claims courts and the results of decisions reached in small claims cases. A review of studies including an empirical study of two Ohio small claims courts monitored for 12 months made it clear that small claims courts need to be examined to determine if utilization and accessibility to this court system has improved for consumers. This study focused particularly on the activities of one small claims court in Wood County, Ohio from 1980 to 1985 where a random sample of 10% of the cases filed was examined. Questions were raised concerning who filed the complaints, the types of complaints, the winners, the magnitude of awards, and the information needed to utilize the system. The findings indicate that 58% of the plaintiffs were businesses while 98% of the defendants were individuals. In most cases, the judgement was in favor of the plaintiffs. The findings were similar to those of previous studies. The report offers some simple rules to follow when taking cases to these courts. Included are a list of references and a table of complaints filed. (KWL)

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Small Claims Court

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Abstract

The purpose of this study was to determine the utilizers of small claims courts and their outcomes. This was stemmed by analyzing the behavior of 10% of the use from 1980-1985. The findings indicated that use level has not changed much since the courts conceptions. Specifically, businesses are the major users. Strategies need to be developed to aid the average consumer to help insure their day in court.

Small Claims Court

Small claims courts were first introduced in the United States in 1913 in Cleveland, Ohio. This court was modeled after the small claims courts that operated in London, England as early as 1606. These courts came into existence because a viable avenue for consumer redress for small claims did not exist. Roscoe Pound is quoted as saying, "It is the denial of justice in small cases to drive litigants to employ lawyers and it is a shame to drive them to legal aid societies to get as charity what the state should give as a right" (Pound, 1913).

Following Cleveland's lead, Massachusetts and California established statewide systems, in 1920 and 1921, respectively. Most states followed suit during the time period of 1920 through 1945. However, the definition of what small claims courts were about varied from one jurisdiction to the other. Typically, cases were heard without a judge. Their procedures were usually informal and the plaintiff could plead his/her own case. In addition, the cost was usually nominal (Mason, 1983; Steele, 1981).

Since their existence small claims courts have occupied different degrees of importance. During their history they have been perceived as being unimportant and at the bottom of the civil court hierarchy. Up until 1958 when justices of the peace

were eliminated, most small claims courts were left to the justice courts. Currently, the business community has realized its importance, especially in terms of dealing with issues efficiently and inexpensively and greatly increased the use of this court system.

It has been argued by some that small claims courts have become the domain of lawyers and corporate plaintiffs who hire them. Judge J. Skelly Wright has argued that "in actual operation, there is little correspondence between the professed aim of these courts and the end they serve" (Wright, 1969). The little man, for which small claims courts are designed to serve, is believed to be the defendant in most cases, instead of the plaintiff (Changing Times, 1973).

This court that was designed to eliminate lengthy delays in the legal system and high costs and fees is being challenged (Changing Times, 1973). It is further being questioned as to whether it is an avenue for the average or poor person to have their day in court, simply because of the elimination of high fees and unnecessary need for legal representation (Resford & Cooper, 1977).

Some studies conducted in regard to the practices of small claims courts found that in eighty percent of the cases judgements were made in the plaintiff's favor. Further, about fifty percent of the judgement creditors eventually collected

any recovery awarded them (King, 1977). In most cases writ of execution must be filed to collect winnings. This may be in the form of wage garnishments, bank attachments, or recertification of judgement against real estate in the state of Ohio.

Research has indicated that consumers are not receiving the maximum benefit from small claims court systems. John Weiss, an instructor at Harvard, stated that, "for the vast majority of American consumers, small claims courts are either unavailable, unstable, or invisible" (Changing Times, 1973). A study done by Consumers Union supports this claim (Consumers Report, 1978).

Judge J. Skelly Wright illustrated how businessmen are taking advantage of the small claims court system, while the poor are not because they are unaware of their rights. Judge Wright reported that of 2,690 court judgements made in one year, all were presented by eleven retailers. In the same study it was reported that in a similar study conducted in Hartford, Connecticut, only ten percent of the cases filed in small claims courts were cases filed by individual consumers. One could conclude from these reports that small claims courts are a failure (Wright, 1969).

In an empirical study of two Ohio small claims courts monitored for twelve months, it was found that a large portion of the judgements made were by default, the majority of the

judgements going to the plaintiffs. Some speculate that this was probably due to the fact that businesses had records of debts such as bills or contracts while individuals had greater problems finding proof. In addition, it was found that more corporations were able to collect their judgements either partially or fully than individual claimants. A common complaint was that individual plaintiffs did not know how to collect their judgement. The small claims court has little to do with the collection process and consumers believe that this need is not being appropriately addressed by the courts (Hollingsworth, 1973).

It has become apparent from the studies reviewed that small claims courts need to be examined to determine if utilization and accessibility to the system has improved for consumers. With this impetus this research has focused on the activities of one small claims court in Wood County, Ohio from 1980 to 1985. A random sample of ten percent of the cases filed in this court was examined. Questions were raised as to who filed the complaints, the types of complaints, who were the winners, what was the magnitude of their awards, and what information was needed to utilize the system.

The results of this study are interesting. The findings indicate that since 1980 the majority of cases, fifty-eight percent, had businesses as plaintiffs whereas the majority of

the defendants, ninety-eight percent, were individual tenants (see Table 1). The most common types of business plaintiffs were physicians, utility companies, and rental agents. Businesses and professionals were suing individuals in ninety-seven percent of the cases whereas only nine percent of the individuals were suing businesses and professionals. Forty-one percent of all cases were individuals who brought suits against other individuals. Three percent were businesses who brought suits against other businesses. The typical judgement was in favor of the plaintiff and that was in ninety-six percent of the cases, with the average monetary size of the judgement being $330. The plaintiffs' success rate (96%) is typical of that found in other studies. The quality of the claimed the evidence supporting it may be the most important determinants of the success rate.

These findings were similar to other courts across the country in regards to who filed and the judgements awarded. Those utilizing the courts were mostly small businesses and wage earners. In addition, similar to other courts, the process was swift in Wood County.

There are some simple rules for having your day in court. It begins by identifying your opponent properly and allowing the clerk of courts to send a letter of notification. Once this is done you need to assemble your evidence and further consider

settling out of court if possible. Finally the day arrives when you can present your case.

In presenting your case in court, you should remember that you do not have to try to act like an experienced attorney. Simply, stand up when you make your first statement to the judge. Present your case conversationally rather than reading your statement. Remember, be brief, and do not interrupt your opponent or any of the witnesses. If part of your case is difficult to express in words, bring the necessary physical material such as a diagram, a faded rug, a battered bicycle tire, etc.

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Table 1

Filing Complaints

Year	% of Individuals	% Businesses/ Corporations
1980	37	63 (N=116)
1981	48	52 (N=130)
1982	32	68 (N=126)
1983	47	53 (N=110)
1984	46	84 (N=135)
1985	85*	15 (N=96)

Adjusted N = 617

Total N = 713

[*1985 was not a complete year, through October, 1985 only.]